

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION

This matter relates to:

All Actions

)
)
)
) MDL No. 1:13-md-2419-FDS
)
)
)

[PROPOSED] ORDER

On April 11, 2014, Defendant Ameridose, LLC, filed its Motion to Proceed with FDA-Authorized Destruction of Recalled Inventory (Doc. 1090). Two parties, “the Tennessee Clinic Defendants” (Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John W. Culclasure, MD; Debra V. Schamberg, RN; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; and Kenneth Lister, MD, PC) and Unifirst Corporation, requested an opportunity to extend the response time to Ameridose’s motion.

In subsequent discussions, counsel for these two parties and Ameridose, along with the PSC, reached an agreement with regard to the destruction of Ameridose’s inventory of recalled “controlled substances.” In particular, Ameridose shall be permitted to destroy, according to the protocols approved by FDA, any “controlled substance” – drugs and other substances commonly referred to as DEA Schedules II, III, IV and V, and List One Chemicals, and which are listed in the schedules of controlled substances set forth in 21 USC § 811-814 and 21 CFR §1308 et seq. – in the recalled inventory.

On May 2, 2014, the Plaintiffs' Steering Committee filed its response (Doc. 1118) taking no formal position on the motion but reflecting its correct understanding that Ameridose sought to destroy only products made at locations other than 697 Waverly Street in Framingham, Massachusetts. In subsequent discussions between counsel for Ameridose and the PSC this understanding has been confirmed.

Given the reasons advanced, the original motion, the response of the PSC, and the agreement of the Tennessee Clinic Defendants and Unifirst Corporation reflected here, the Court hereby Orders that Ameridose is authorized to destroy any and all controlled substances, as described above, in the recalled inventory, and reserves for later decision the issue of destruction of the remaining recalled inventory. Nothing in this order shall permit any entity to destroy any recalled products that were produced at 697 Waverly Street in Framingham, Massachusetts.

IT IS SO ORDERED.

JUDGE RYA W. ZOBEL

DATE: _____, 2014

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

**IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION**

MDL No. 2419

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 20, 2014, Defendants [Proposed] Order was filed with the Court's CM/ECF filing system, thereby requested notice be issued to all parties at the email addresses listed below and mailed where there is no email address available:

Gladys G. Austin,
Richard Blankenship,
Cheryl Brogan,
Kimberly Chitwood,
Christopher Compton,
Shirley Doyle,
Renate Fariss,
Nancy Goodfellow,
Norma Hurley,
Mabel Hutcherson,
Arnold Moon,
Roseanne Moon,
Sharon Overstreet,
Mary Radford,
Audrey Ransome,
Nosworthy Reid,
Larry Hall,
Frank Haranzo, Jr.,
Susanne Hastings,
Jacob Helm,
Stuart Katz,
Melissa Marshall,
John Marsinko,
Jane McKeon,
Angela Norman,
Larry Rice,
Deanna Smith,
Stevie Thomas,
Brenda Varley,
Christine Wheeler,
William L. Neal,

Gregory Lee Lyons, Esq.
Joanna Marie Meyer, Esq.
John Palmer Fishwick, Jr.
John Eric Lichtenstein, Esq.
Monica Lynn Mroz, Esq.
Lichtensteinfishwick, PLC
PO Box 601
Roanoke, VA 24004-0601
Email: gll@vatrivals.com
jmm@vatrivals.com
jpf@vatrivals.com
jel@vatrivals.com
monica@vatrivals.com

Administrator of the Estate of Lucy Byrd Neal	
Nora Bell, Alma Eden, Thomas Goodwin, Jimmy Green, Patricia Jennings, Susan Kincanon, Ashlee Lakin, Virginia Milne, Lori Morris, Deborah Rogers, David Rose, Joseph Smith, Vicki Uthus, Regina Waddell, Doris West, Judith Williams	Peter Brent Brown, Esq. William Andersen Jennings, Esq. Brown and Jennings PLC Suite 700 30 Franklin Road Roanoke, VA 24011 Email: alisha@brownjenningslaw.com andy@brownjenningslaw.com
Chance Everett Baker	Lauren Morgan Ellerman Frith & Ellerman PC 303 Washington Avenue, SW Roanoke, VA 24016 Email: lellerman@frithlawfirm.com
Insight Health Corp.	Clement Dean Carter, Esq. Heather L. Carlton, Esq. James Francis Neale, Esq. 200 South 10 th Street, Suite 1600 Richmond, VA 23219 Email: ccarter@mcguirewoods.com
Image Guided Pain Management	John Thomas Jessee, Esq. LeClair Ryan 1800 Wachovia Tower, Drawer 1200 Roanoke, VA 24006 Email: john.jessee@leclairryan.com
ARL Bio Pharma, Inc. dba Analytical Research Laboratories	Thomas Kupiec, Registered Agent 840 Research Parkway, Suite 546 Oklahoma City, OK 73104-3615
John M. Mathis, MD	2923 Franklin Road, SW Roanoke, VA 24014
Robert F. O'Brien, MD	2923 Franklin Road, SW

	Roanoke, VA 24014
Medical Sales Management, Inc.	Gregory Conigliaro, Registered Agent 697 Waverly Street Framingham, MA 01702-8589
Barry J. Cadden	13 Manchester Drive Wrentham, MA 02093-2506
Lisa M. Conigliaro Cadden	13 Manchester Drive Wrentham, MA 02093-2506
Gregory A. Conigliaro	52 Sears Road Southborough, MA 01722-1102
Carla R. Conigliaro	15 Hale Drive Dedham, MA 02026-5504
Glen Chin	73 Mechanic Street Canton, MA 02021
Linda Pino	124 Upland Road Marlborough, MA 01752-1387
Douglas A. Conigliaro	15 Hale Drive Dedham, MA 02026-5504

/s/ Matthew P. Moriarty
*One of the Attorneys for Defendant Ameridose
 LLC*